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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/549,857

09/23/2005

Claudio Zampieri

2005_1196A

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05/31/2007

WENDEROTH, LIND & PONACK, L.L.P.

2033 K STREET N. W.

SUITE 800

WASHINGTON, DC 20006-1021

EXAMINER

COLLADO, CYNTHIA FRANCISCA

ART UNIT

PAPER NUMBER

3618

MAIL DATE

DELIVERY MODE

05/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------|-----------------------------------|--|
| Office Action Summary | Application No. 10/549,857 | Applicant(s) ZAMPIERI, CLAUDIO | |
| | Examiner Cynthia F. Collado | Art Unit 3618 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>2/22/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant submitted an amendment dated February 22nd 2007, wherein claims 1-4 were canceled. New claims 5-7 were added.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borel (US Patent No.6, 340,164).

Regarding claim 5, Borel discloses a footwear having a sole on the bottom thereof (fig 3, element 3) the sole having a heel piece zone (fig 3, element 10) a chassis supporting at least four wheels including a front wheel and a second wheel immediately behind the front wheel, the front wheel and the second wheel being located in front zone of the chassis (fig 3, element 4), at least first and second binding points on the sole for attachment of the sole to the chassis (fig 3, elements 17 and 22), first binding point being positioned in proximity of the heel piece zone of the sole (fig 3, element 17) and the second binding point positioned approximately in a toe juncture area of the sole (fig 3, element 22), fasteners for joining the footwear to the chassis at the first and second binding points (fig 3, elements 17 and 22), the second binding point located between

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the front wheel and the second wheel (fig 3, element 22), wherein a height of the front zone of the chassis in relation to a ground contact plane of the wheels is substantially equal to the diameter of at least four wheels. Borel lacks the teaching of the diameter of the wheels however Borel discloses the claimed invention except for the wheels having a diameter of at least 100mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture wheels having a diameter of at least 100 mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claim 6, Borel discloses the claimed invention except for wherein a center distance between the first and second binding points is between 170mm and 210mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the center distance between the first and second binding points to be between 170mm and 210mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Regarding claim 7, Borel discloses wherein the center-to-center distance between the first and second binding points is 195mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the center to center distance between the first and second binding points is 195mm, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Response to Arguments

Regarding applicant's arguments filed February 2, 2007, with respect to claims 1-4, has been fully considered by the examiner however the applicant's remarks conversely are not convincing. In regards to the claims, Applicant argues the rejection of Borel fails to disclose a second binding point for attachment of the sole of the footwear to the chassis that is positioned approximately in the toe juncture area of the sole, nor does he disclose the second binding point located between the front wheel and the second wheel. Applicant argues that Borel does not disclose the four wheels on the chassis having a diameter of at least 100mm, however In response to applicants arguments that neither of the references disclose or suggest fails to disclose a second binding point for attachment of the sole of the footwear to the chassis that is positioned approximately in the toe juncture area of the sole, nor does he disclose the second binding point located between the front wheel and the second wheel, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Borel in figure 3 clearly shows a second binding point (24) for attachment of the sole of the footwear to the chassis that is positioned approximately in the toe juncture area of the sole, the second binding point located between the front wheel and the second wheel (4 and 24). Therefore, the rejection is proper and maintained.

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In response to applicants arguments regarding Borel not disclosing at least four wheels on the chassis having a diameter of at least 100mm, it's old and well known in the art to manufacture wheels having a diameter of at least 100mm Therefore, the A rejection is proper and maintained.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

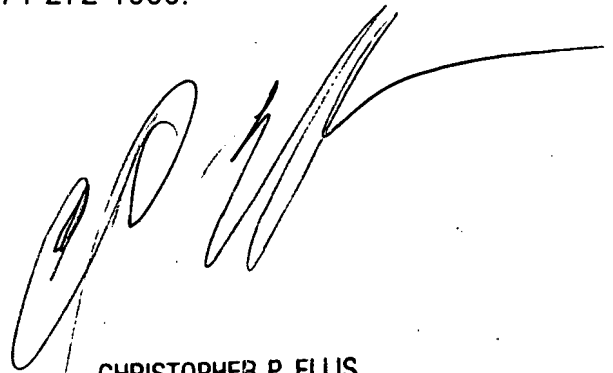
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CFC *ch* 5/9/04



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